

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**WILLIAM FERN, et al.,**

**Plaintiffs,**

**CIVIL ACTION NO. 06-CV-14548-DT**

**VS.**

**DISTRICT JUDGE NANCY G. EDMUNDS**

**HARLEY DAVIDSON  
MOTOR CO., INC.,**

**MAGISTRATE JUDGE MONA K. MAJZOUN**

**Defendant.**

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**OPINION AND ORDER GRANTING DEFENDANT'S  
MOTION TO COMPEL DISCOVERY**

This matter comes before the Court on Defendant's Motion to Compel Discovery filed on May 16, 2007. (Docket no. 19). Plaintiffs did not file a Response brief. The Court heard argument from counsel on June 25, 2007. The matter has been referred to the undersigned for decision pursuant to 28 U.S.C. § 636(b)(1)(A). (Docket no. 20). The matter is now ready for ruling.

Defendant shows that it served on Plaintiffs its First Set of Interrogatories to Plaintiffs and Defendant's First Requests for Production to Plaintiffs on or about March 2, 2007. Plaintiffs failed to respond to these discovery requests. At oral argument, Plaintiffs' counsel, Mr. Marr, stated that because of personal matters he was unable to respond to Defendant's discovery requests or file a response to Defendant's motion. Plaintiffs' counsel stated during the June 25 hearing that he could fully respond to Defendant's discovery requests within one week. Also, Plaintiffs' counsel agreed that Defendant's inspection of the motorcycle at issue would be conducted within 21 days of the June 25, 2007 hearing date.

Pursuant to Fed. R. Civ. P. 33 and 34, Plaintiffs' responses to Defendant's Interrogatories and Requests for Production were due within 30 days after service of the discovery requests. Plaintiffs do

not dispute that they did not timely respond. Plaintiffs have therefore waived any objections to these discovery requests. *See* Fed. R. Civ. P. 33(b)(4); *Phillips v. Dallas Carriers Corp.*, 133 F.R.D. 475, 477 (M.D.N.C. 1990) (Rule 34 waiver). The Court will order that Plaintiffs respond to Defendant's discovery requests and will decline to award sanctions and expenses at this time.

**IT IS THEREFORE ORDERED** that Defendant's Motion to Compel Discovery (docket no. 19) is **GRANTED**.

**IT IS FURTHER ORDERED** that Plaintiffs provide substantive answers and responses to the Interrogatories at issue and the Requests for Production of Documents at issue on or before 5:00 p.m. on July 2, 2007.

**IT IS FURTHER ORDERED** that on or before July 16, 2007 the parties will complete the inspection of the motorcycle at issue.

#### **NOTICE TO THE PARTIES**

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. 636(b)(1).

Dated: June 26, 2007

s/ Mona K. Majzoub  
MONA K. MAJZOUB  
UNITED STATES MAGISTRATE JUDGE

#### **PROOF OF SERVICE**

I hereby certify that a copy of this Opinion and Order was served upon Counsel of Record on this date.

Dated: June 26, 2007

s/ Lisa C. Bartlett  
Courtroom Deputy